

Restraints and non-compete/solicitation clauses are extremely necessary to protect a business from closing down, which would then lead to loss of employment and tax revenue for the government. In fact should be made easier and less costly to enforce, similar to small claims court where you can represent yourself, it's low cost and a judge decides based on evidence or perhaps via an ombudsman/mediation authority.

For example, I run a small recruitment business (approximately 10 staff, specializing in recruiting for accountants in accounting firms – very small niche within a niche), in which 4 staff left end of last year and decided to compete with me, they took all of the databases with our clients/candidates and all the processes they learned and competed directly against us, the quarter following their departure was the worst quarter we ever had and the company is now making a loss.

If enforceability was less costly and taken seriously in Australia this would not happen, the business would be protected and the departing people could still earn an income in a different area of recruitment (i.e.: recruiting in a slightly different niche such as commercial accountants or going to an HR role inside a company as many agency recruiters do – so it doesn't prevent them from earning an income).

The consequences for a business and the economy is that I am now less inclined to hire anyone in the business locally and instead prefer to outsource and offshore as it's less expensive to hire people offshore and they are much less likely to compete with me. No point in hiring and training people if they can so easily leave and start on their own, especially in service businesses like recruitment, and accounting.